

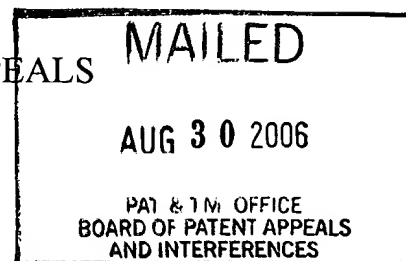
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte EVA ACKERMAN, and  
RANDY GENE CLARK

Application No. 09/764,572

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER



This application was received electronically at the Board of Patent Appeals and Interferences on August 28, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

An Information Disclosure Statement (IDS) was filed on October 14, 2003. A review of the Image File Wrapper reveals that the examiner has not considered the IDS. According to MPEP § 609 which states:

“ . . . The Examiner must also fill in his or her name and the date the information was considered in blocks at the bottom of the PTO-1449 or PTO/SB/08A and 08B form.”

On March 30, 2006, appellants filed an Appeal Brief. A review of the file reveals that “Related proceedings appendix” is missing from the Appeal Brief according to 37 CFR § 41.37(c)(1)(x) which states:

An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) . . . .

Accordingly, it is

**ORDERED** that the application is returned to the Examiner for:

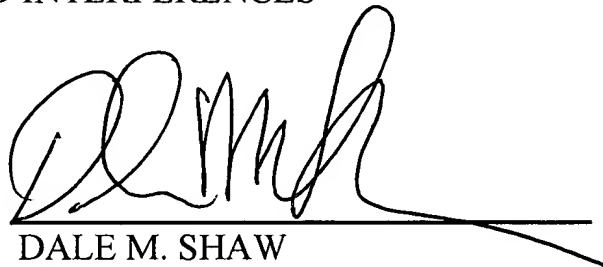
- 1) consideration of the IDS filed October 14, 2003;
- 2) hold the Appeal Brief of March 30, 2006 defective;
- 3) have the applicants file a Supplemental Appeal Brief in compliance with 37 CFR § 41.37;

4) if necessary, vacate the Examiner's Answer mailed May 17, 2006, and issue a revised Examiner's Answer in accordance with the new rules effective September 13, 2004; and

5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:



DALE M. SHAW  
Deputy Chief Appeal Administrator  
(571) 272-9797

DMS/dal

. • Application No. 09/764572

JONES & SMITH, LLP  
THE RIVIANA BUILDING  
2777 ALLEN PARKWAY  
STE. 800  
HOUSTON, TX 77019-2141